

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CHICAGO REGIONAL COUNCIL OF)
CARPENTERS PENSION FUND, CHICAGO)
REGIONAL COUNCIL OF CARPENTERS)
WELFARE FUND, *et al.*,)
Plaintiffs,) 09 CV 04294
v.)
IHC CONSTRUCTION COMPANIES, L.L.C.,)
an Illinois Limited Liability Company, f/k/a IHC)
General Contractors, L.L.C.,)
Defendant.)
Judge Ruben Castillo

PLAINTIFFS' MOTION FOR ENTRY OF FINAL JUDGMENT

Plaintiffs, the CHICAGO REGIONAL COUNCIL OF CARPENTERS PENSION FUND (“Pension Fund”), the CHICAGO REGIONAL COUNCIL OF CARPENTERS WELFARE FUND (“Welfare Fund”), the CHICAGO AND NORTHEAST ILLINOIS REGIONAL COUNCIL OF CARPENTERS APPRENTICE AND TRAINEE PROGRAM (“Trainee Fund”), and the LABOR/MANAGEMENT UNION CARPENTRY COOPERATION PROMOTION FUND (“Labor/Management Fund), by their attorney, Kevin P. McJessy, hereby move this Court pursuant to Federal Rule of Civil Procedure 55(b) to enter a final default judgment against IHC CONSTRUCTION COMPANIES, L.L.C. formerly known as IHC General Contractors, L.L.C. (“Defendant”) in the amount of \$14,022.99 as follows.

1. **Summary.** The Trust Funds filed this action against the Defendant because the Defendant refused to fully submit to an audit and failed to comply with its obligation to contribute to the Trust Funds pursuant to the Area Agreements and the Trust Agreements. The Trust Funds seek all contributions found owing, interest and liquidated damages, auditors’ fees and attorneys’ fees and costs.

2. The complaint was served on July 29, 2009 and the affidavit of service was filed with the U.S. Clerk of Court on August 3, 2009.

3. **Defendant is Bound by the Collective Bargaining Agreement.** Defendant is a member of the Illinois Road & Transportation Builders Association which is a subsidiary association of the Mid-America Regional Bargaining Association (“MARBA”). As a result of its MARBA membership, Defendant agreed to be bound by the then current Area Agreement and all subsequent Area Agreements negotiated between MARBA and the Union. Decl. of J. Libby, ¶3, Exhibit A. Defendant was a MARBA member during the period July 1, 2006 through March 31, 2008 (“Audit Period”). Decl. of J. Libby, ¶3, Exhibit A.

4. **Court Compelled Audit.** The Trust Funds originally filed a complaint against Defendant on July 16, 2009. On July 20, 2009, the Court entered the following Order on the Court’s own motion:

MINUTE entry before the Honorable Ruben Castillo: After a careful review of this recently filed complaint, the Court orders that defendant IHC Construction Companies, LLC f/k/a IHC General Contractors, LLC submit to an audit by Plaintiffs for the time period January, 2007 to the present to determine its full liability in this case. Plaintiffs should immediately proceed with service of the complaint and this order and fully exhaust all settlement possibilities for this case. Defendant will be given a full opportunity to contest liability or damages after the audit is completed. Defendants should timely answer or otherwise plead to the complaint. This case is hereby administratively dismissed without prejudice. The Court will retain jurisdiction to enforce this order and enter any appropriate final judgment.

A copy of the July 20, 2009, Notification of Docket Entry is attached as Exhibit B.

5. **Defendant and Trust Funds Completed the Audit.** Thereafter, Defendant cooperated slowly and Trust Funds’ and their auditors were able to complete an audit of Defendant’s books and records.

6. **Defendant Ignored Demands.** Despite repeated demands, Defendant has not paid the amounts due based on the audit nor has Defendant otherwise responded to the audit.

7. On April 18, 2011, the Trust Funds made a final demand on the audit with a response requested by May 2011, but Defendant failed to respond.

8. Defendant has not filed an answer or appearance in this Lawsuit.

9. This Court should enter a final default judgment against the Defendant pursuant to Federal Rule of Civil Procedure 55(b) because the Defendant has failed to answer or otherwise plead as ordered by this Court.

10. The amount owed by Defendant is \$14,022.99 as follows:

A. \$965.15 in unpaid contributions pursuant to the audit; *see* Decl. of J. Libby, ¶6, Exhibit A;

B. \$7,730.25 for auditor's fees incurred by the Trust Funds to complete the audit of Defendant's books and records; *see* Decl. of J. Libby, ¶5, Exhibit A; Decl. of M. Ragona, ¶2, Exhibit C;

C. \$301.63 in interest under ERISA on the amount that is due; *see* 29 U.S.C. § 1132(g)(2)(B); 29 U.S.C. § 1132(g)(2)(C); Decl. of J. Libby, ¶7, Exhibit A;

D. \$193.03 in liquidated damages; *see* Decl. of J. Libby, ¶7, Exhibit A; and

E. \$4,832.93 in reasonable attorneys' fees and costs the Trust Funds incurred in this action pursuant to 29 U.S.C. § 1132(g)(1) and/or § 1132(g)(2)(D); *see* McJessy Decl., ¶4, Exhibit D.

11. A draft order is attached as Exhibit E.

WHEREFORE, Plaintiffs the Chicago Regional Council of Carpenters' Fund et al. hereby move this Court to enter judgment in their favor and against Defendant IHC

CONSTRUCTION COMPANIES, L.L.C. awarding the Trust Funds \$14,022.99 in damages, reasonable attorney' fees and costs incurred by the Trust Funds in enforcing the judgment and such other relief as this Court deems appropriate.

CHICAGO REGIONAL COUNCIL OF
CARPENTERS PENSION FUND *et al.*

By: s/ Kevin P. McJessy
One of their attorneys

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CERTIFICATE OF SERVICE

I, John J. Sopata, an attorney, certify that I caused the foregoing **Plaintiffs' Motion For Entry Of Final Default Judgment** to be served upon

IHC Construction Companies, LLC
c/o Thomas Rakow, Registered Agent
1797 N. LaFox
South Elgin, IL 60177

by having a true and correct copy placed in the U.S. Mail Depository at 3759 N. Ravenswood, Chicago, Illinois, postage prepaid, on this 16th day of August 2011.

By: Kevin P. McJessy
One of Their Attorneys